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April 19, 1993

MEMORANDUM

TO: Bob Lewis
Ralph Vinovich
Dick White

FROM: Kay Packett *KP*

Attached for your review are draft statements for the April 22 Traficant hearing for Reps. Clement, Clyburn, Duncan, Emerson, Parker, Rahall, Valentine and Wise.

Let me know if you have suggestions for revision or if you'd like to mix and match.

Attachments

cc: Susan Stuntz

TI0138-0157

HEARING ON H.R. 881

STATEMENT OF REPRESENTATIVE BOB CLEMENT

Mr. Chairman, I appreciate the opportunity to address the members of this Subcommittee on the important question of whether smoking should be prohibited in all facilities owned or leased by the federal government. I would like to take a moment today to outline several significant concerns about this proposal.

First, the stated basis for this proposal is the recent ruling by the Environmental Protection Agency (EPA) that environmental tobacco smoke (ETS) is carcinogenic to nonsmokers. Mr. Chairman, I do not claim to understand all of the intricacies of risk assessment, but I am aware that many prominent members of the scientific community are less than satisfied with the scientific integrity of the ETS risk assessment. As one epidemiologist put it: "It's rotten science, but it's in a worthy cause. It will help us to get rid of cigarettes and become a smoke-free society."

Worthy cause or not, we can ill afford to use "rotten science" as a basis for federal policy. Unfortunately, the scientist's statement characterizes what appears to be a widespread, cavalier attitude toward the evaluation of ETS. Because the subject is tobacco -- a product that often generates emotional response -- otherwise conscientious scientists seem willing to compromise scientific standards to achieve the objective of improving public health.

There are other examples of this prevailing attitude. A

similar comment was made by a manager in the Office of Technology Assessment during the early days of the risk assessment. When the manager was notified of an important "negative" ETS study that was not being given full consideration by EPA, the manager acknowledged the value of the study with a somewhat disturbing qualifier. He said: "Anything that reduces smoking has substantial health benefits. And making smokers into pariahs, for whatever reasons, does just that."

Mr. Chairman, I submit that the motivations behind the EPA's risk assessment and current efforts to ban smoking may be well-intentioned. But it is not the federal government's role to use "rotten science" for political expediency or to make citizens into "pariahs," no matter how noble the cause. Absent convincing scientific evidence supporting claims that ETS is dangerous to nonsmoker health, we are essentially attempting to regulate a simple lifestyle choice.

Second, even if the risk assessment were scientifically supportable, Mr. Chairman, it is not necessary for the federal government to take such draconian measures. Both smokers and nonsmokers can be accommodated in the workplace, as has been the case since 1987 when the General Services Administration issued smoking policy guidelines. Under current regulations, smoking is restricted to designated areas in most federal facilities. In the event of a conflict between smokers and nonsmokers, the wishes of nonsmokers prevail. There is no evidence to suggest that these measures have failed or that there is justification

for further federal regulation.

Mr. Chairman, you may hear testimony that current indoor ventilation standards are inadequate to mitigate the annoyance of ETS, and this may well be true. But the members of this Subcommittee should view this claim within its proper context. Studies of indoor air in both private and federal government workplaces consistently suggest that the major cause of employee complaints is inadequate ventilation rather than a single source, such as tobacco smoke. Four large databases on sick building investigations show that more than 50 percent of all cases may be traced to inadequate or poorly maintained ventilation systems. Additionally, an EPA survey of 26 public schools across the country revealed that virtually all the schools had ventilation problems, which health officials say could account in part for the increasing incidence of asthma and other respiratory and viral infections among school-age children.

Thus, it seems more reasonable that we approach indoor air problems with an eye toward a comprehensive solution rather than singling out one source of aggravation. Improving ventilation will solve a myriad of indoor air problems, from gasses emitted by office machinery to formaldehyde fumes from carpeting and furniture. The elimination of tobacco, on the other hand, not only doesn't solve the indoor air problem, it doesn't even address it.

Eliminating ETS appears to be little more than a red herring, creating the soothing, if not false, impression that

worker health is being protected. If we focus our energies and resources on correcting ventilation problems, ETS will become a moot issue. As a bonus, smokers could maintain their deserved stature as wage-earning, taxpaying citizens rather than be reduced to the status of social pariahs.

A third problem with this proposal is that the Occupational Safety and Health Administration (OSHA) -- the agency responsible for regulating workplace exposures -- is in the process of evaluating the potential health effects of ETS. In previous evaluations, the agency has determined that the data on workplace exposure is inconclusive inasmuch as most studies have focused on exposure to ETS by nonsmoking spouses in the home. Legislation to ban workplace smoking before OSHA's study is complete surely would be premature.

I will close today by encouraging my colleagues to keep the big picture in mind as they consider this proposed legislation. The fact is, we all are subject to varying degrees of indoor air problems, and these problems need to be addressed. But since the scientific evidence on environmental tobacco smoke is inconclusive, our efforts at regulating individual smoking habits can only be described as attempting to regulate individual lifestyle choices. To single out smokers for their choices is an unacceptable goal of government.

Meanwhile, the problem of smoking in federal buildings has effectively been resolved. There is simply no reason for Congress to take further action.

STATEMENT OF REPRESENTATIVE CLYBURN

HEARING ON H.R. 881

Mr. Chairman, the more I learn about the problems with the Environmental Protection Agency's environmental tobacco smoke study and the options that are available to effectively accommodate both smokers and nonsmokers, the more I am convinced that there is absolutely no need for a sweeping smoking ban in federal buildings.

This ban is being sold on the incorrect premise that ETS poses a serious health risk to office workers and that there is no practical way to accommodate smokers and nonsmokers in the same building. This premise is flawed for a variety of reasons.

It troubles me that we are considering imposing a monumental and costly policy change solely on the basis of the EPA report. It doesn't take a risk assessment expert to question a study that selectively incorporates data that is appealing and dismisses data that is unappealing. How can we in good conscience rely only on this report, when it is not supported by the majority of the studies on lung cancer that EPA has reviewed?

More importantly, there is no justification at all for an outright ban on smoking in the federal workplace, when there are many steps that can be taken to improve indoor air quality, and viable solutions available for accommodating smokers. Every office worker in America is exposed to a myriad of indoor pollutants, including substances EPA claims are carcinogens,

every day in their homes and workplaces. However, the levels of those exposures are what is important, and building studies reveal that tobacco smoke represents only a small fraction of airborne pollutants. Even the EPA report suggests that nonsmoker exposures to ETS are extremely low -- on average, the equivalent of about one cigarette per year.

Even if environmental tobacco smoke were a significant problem, there are ways to remove smoke from office environments without violating the rights of smokers. Some proponents of the smoking ban have cited extreme examples of costs associated with implementing separate smoking areas. However, accommodating smokers often is not a complicated or expensive procedure. For instance, effective smoking areas do not necessarily require installing separate air handling units or making major building modifications. Although costs certainly vary on a case-by-case basis, it is my understanding that properly vented designated smoking areas often can be implemented at low cost and in perfect compliance with building codes through relatively simple procedures.

Rulemaking on workplace smoking and air quality issues are clearly the responsibility of the Occupational Safety and Health Administration, not Congress. However, if we must get involved, I urge this Subcommittee to focus our attention on the facts, and to weigh questionable scientific evidence with the proper caution. Most importantly, rather than jumping to our own conclusions about how to address office indoor air quality, we

have a responsibility to further consult with air quality and ventilation experts to better understand this issue.

Before we rush to make decisions that will impose undue burdens on government employees, we should be confident that we have explored all the options and are implementing sound policy based on sound science.

STATEMENT OF REPRESENTATIVE DUNCAN

HEARING ON H.R. 881

Mr. Chairman, prior to our last hearing on H.R. 881, I was unconvinced of the need to prohibit smoking in all federal buildings. After listening to and reading the testimony presented by scientists and indoor air quality experts at that hearing, I must continue to oppose this legislation.

There seem to be legitimate concerns about both the methodology of the Environmental Protection Agency's study on environmental tobacco smoke and the standards of reliability to which the study is held. I cannot condone implementing public policy based on questionable scientific evidence.

However, disregarding concerns over the EPA study, I am equally troubled by the notion that we are proposing sweeping smoking prohibitions in the name of clean indoor air, while giving absolutely no consideration to any of the major factors that influence workplace air quality. These factors include problems with fungi, dusts, low relative humidity, bacteria, fibrous glass, exhaust fumes and various volatile organic compounds -- all of which I understand are more prevalent in office buildings than tobacco smoke.

Some buildings have more smokers than others, but all buildings have carpets, paint, office machinery, fabric and all types of other furnishings that emit gasses and therefore contribute to air quality problems. Even EPA's own Washington

headquarters has experienced "sick building syndrome," not as a result of smoking, but due to poor ventilation and off-gassing by carpets and other building materials.

Smoking is very much a political issue, and I understand that there are a variety of reasons that many people would like to see smoking banned from federal buildings. But how can we, in good faith, claim to be acting in the best interest of the health of office workers if we fail to address the larger issues related to poor ventilation and the accumulation of various indoor pollutants?

We have heard testimony that of almost 1,000 buildings investigated by the indoor air quality experts at Healthy Buildings International, less than three percent of the problems have been due to tobacco smoke. We have also heard that properly ventilated smoking areas can effectively accommodate smokers without exposing others in the building to tobacco smoke. Therefore, there is in my view no justification for ignoring the preference of federal employees who smoke, by instituting draconian measures to ban smoking entirely.

When implementing public policy, we have a responsibility to consider the rights and interests of all those affected, regardless of whether or not we approve of their actions. As we continue to debate this issue, I urge my colleagues to explore ways to accommodate, not ostracize, the nearly one-third of our workforce that chooses to smoke.

STATEMENT OF REPRESENTATIVE EMERSON

HEARING ON H.R. 881

Mr. Chairman, I want to express my strong opposition to H.R. 881, which would ban smoking in all federal workplaces. Although there is some political sentiment to support such a measure, there clearly is insufficient science or logic to justify this extreme action.

Sound public policy decisions rely on gathering and analyzing all the evidence before the appropriate course of action is determined. However, in this case, due to the excitement being generated over one EPA report of questionable reliability, we are considering bypassing the bulk of available evidence to arrive at a predetermined conclusion.

We have a responsibility to avoid this type of policymaking. However, in the case of public smoking, the political bandwagon is already rolling and is gathering momentum. Sadly, those on the bandwagon are ignoring the majority of scientific evidence, the rights of smokers, the realities of indoor air quality and existing policies involving workplace exposures to airborne pollutants. Although it may be politically convenient to follow this course, we would be wrongly imposing yet another burden on federal workers.

That this proposal reflects simple over-reaction to the EPA reports can be seen clearly when tobacco smoke is considered from the perspective of the many substances we encounter in daily

life. Office workers are routinely exposed to a variety of so-called carcinogens in the workplace, from sources as varied as spray cleaners and tap water. And yet there is no call -- from Congress, from EPA, from OSHA or from the public -- to eliminate every trace of these products from the workplace. The reason is simple: at the low levels to which we typically are exposed, these so-called carcinogens are not thought to pose a risk to health.

The Occupational Safety and Health Administration (OSHA), which has responsibility over workplace safety, has studied concentrations of carcinogens to determine reasonable exposure limits -- or levels below which there is no harm. Under these guidelines, it is acceptable to be exposed to a variety of substances which EPA considers to be carcinogenic, such as chromium, asbestos or benzene, as long as the amounts are not excessive.

For instance, according to OSHA, five million fibers of airborne asbestos in an average office building is perfectly acceptable. Therefore, the notion that even one molecule of tobacco smoke in the air is cause for panic is absurd and absolutely inconsistent with existing workplace policies and regulatory practices.

Even if you disregard the fact that the EPA environmental tobacco smoke (ETS) study is scientifically indefensible, the reality is that ETS is not even a major factor in indoor air quality. I am confident that when this committee takes a

comprehensive and objective look at this issue, we will conclude that concerns about workplace smoking are greatly exaggerated and that a sweeping smoking prohibition is absolutely not required.

**HEARING ON H.R. 881
STATEMENT OF REPRESENTATIVE MIKE PARKER**

Mr. Chairman, I appreciate the opportunity to address the members of this Subcommittee during consideration of H.R. 881, which proposes banning smoking in federally-owned and -leased facilities.

Mr. Chairman, I have several concerns about this legislation, not the least of which is the absence of any demonstrated need for such regulation. As the Subcommittee is aware, smoking in federal buildings already is severely restricted, with smokers relegated to specially designated areas and all conflicts resolved in favor of nonsmokers. The need for further action on this issue seems remote.

Some who will appear before this Subcommittee will argue that ventilation in most federal buildings is insufficient to prevent nonsmoker exposure to environmental tobacco smoke (ETS). As others have testified, however, ventilation in federal buildings also is inadequate to provide a comfortable and healthy environment in general, regardless of whether smoking is allowed. In fact, it is my understanding that ETS is rarely a cause of employee complaints, which usually result instead from inadequate ventilation in most facilities or poor maintenance of ventilating systems. Banning smoking, then, does nothing to eliminate other and more significant causes of poor air quality in federal offices.

If indoor air quality is indeed this Subcommittee's concern, perhaps our efforts would be best directed toward addressing the many factors that contribute to poor air quality rather than singling out one source that merely serves to "punish" people who, but for a simple lifestyle choice, are valuable, contributing members of society.

I am aware that the incentive behind increased federal regulation is the Environmental Protection Agency's recent risk assessment of ETS. I also am aware that the EPA's document does not represent our government's best scientific effort. According to numerous news reports brought to my attention, there are many within the scientific community who disagree with the way the risk assessment was conducted. These experts variously charge that the evaluation did not include several important studies that contradicted the EPA's perhaps well-intentioned purposes.

In fact, as an article in Science magazine reported, even EPA's own staff have acknowledged that the Agency was forced to resort to "fancy statistical footwork" to indict ETS as a "Group A" or "known human" carcinogen. This statement, and other criticisms raised about the Agency's methodology, suggest that EPA's conclusions are not sufficiently well-founded to form the basis of such a drastic action.

An additional concern in using the ETS risk assessment as a basis for workplace regulation is that the EPA report does not evaluate workplace exposure to ETS or review the available studies, which overwhelmingly fail to demonstrate any increased risk to nonsmokers exposed to ETS at work. The simple fact is

that EPA's assessment is a study of health risks to nonsmokers married to smokers, and therefore thought to be exposed to ETS at home. The Occupational Safety and Health Administration (OSHA) is charged with establishing how much ETS nonsmokers encounter in their workplaces and with determining whether or not those typically low exposures result in any increased risk to health. This Subcommittee's should await OSHA's review.

Mr. Chairman, a second issue that I hope this Subcommittee will consider in reviewing the proposed legislation is the question of basic fairness. If the federal government has a single, overriding charge, it is to treat the American people even-handedly. Curiously, smokers have been singled out in recent years as somehow undeserving of this basic right. As far as I know, Mr. Chairman, smoking is not a crime even if at times it is annoying to some nonsmokers. Clearly, we cannot legislate every behavior or activity that annoys some of the people some of the time.

Further, this trend toward intolerance runs contrary to the governing precepts of the smoking policy guidelines issued in 1987 by the General Services Administration (GSA). One of those precepts, which this proposed legislation completely ignores, is the desire to accommodate workers who choose to smoke while preventing annoyance among those who prefer not to encounter ETS at work. The preface of the GSA rule states in part: "The proposed regulations also recognized the needs of those who smoke and permitted the designation of smoking areas. These areas were proposed to allow those who smoke to continue to do so

conveniently and without affecting productivity.

"Hence, the policy attempted to recognize the rights, needs and concerns of all employees."

This preface includes several concepts worth preserving. One is that smokers be allowed to practice a lifestyle choice without undue hardship. One conceivable hardship is lost productivity and, as a consequence, the potential for jeopardizing one's source of livelihood. How much time and productivity is lost to employees who must go outdoors to smoke? How long before their absences are noticed by disgruntled fellow employees and/or "punishable" by employers compelled by heavy-handed regulations? The members of this Subcommittee should think carefully before imposing regulations that would surely reduce the effectiveness of such a significant portion of the federal workplace, to the detriment of the workers, the federal government and the people we serve.

Finally, I urge my colleagues to consider GSA's past recognition of the "rights, needs and concerns of all employees." While some of us may disagree with an individual's decision to smoke, it is certainly not the role of government to make such decisions. Smokers have rights and needs that are arguably just as worthy of protection as the rights and needs of nonsmokers. Surely, with designated smoking areas, we can continue to accommodate both.

I will close my reminding by colleagues that smoking -- whatever we think of it for ourselves -- is a legal lifestyle choice. Without supportable scientific evidence to suggest that

minute levels of exposure to environmental tobacco smoke are harmful to nonsmokers, it seems most fair to avoid such restrictive regulation.

STATEMENT OF REPRESENTATIVE RAHALL

HEARING ON H.R. 881

Mr. Chairman, once again, I want to thank you for the opportunity to address this Subcommittee regarding H.R. 881, the "Ban on Smoking in Federal Buildings Act".

During the Subcommittee's March hearing on this legislation, I voiced a variety of concerns about imposing a blanket smoking prohibition in federal buildings. I hope each Subcommittee member has had the opportunity to review carefully the testimony presented by science and air quality experts at that hearing. That testimony, and the majority of evidence on this issue, further convinces me that -- despite the unpopularity of smoking and the publicity surrounding the Environmental Protection Agency's (EPA) report on environmental tobacco smoke (ETS) -- there is no justification for congressional action on the workplace smoking issue.

The linchpin of the campaign to impose a sweeping smoking ban in federal buildings is the highly controversial ETS report released by EPA. As this subcommittee is aware, there is no shortage of criticism surrounding the EPA's analysis of ETS. Although the scientific arguments can be technical and confusing, I would like to briefly reiterate two simple points that I believe are especially compelling.

First, EPA blatantly ignored scientific convention and Agency policy and, for this particular study, lowered its statistical standard for evaluating scientific results from 95

percent to 90 percent. Only after the standards were relaxed was the ETS report able to demonstrate any statistical significance. Even if this study were completely flawless in every other aspect, this statistical manipulation creates serious doubts about the integrity and reliability of this study and any conclusions based on it.

Second, proponents of smoking bans continue to claim that the EPA risk assessment supports workplace smoking prohibition, despite the fact that the EPA assessment is not even a workplace study. Rather, it is a combination and analysis of studies of nonsmokers married to smokers, and therefore presumed to be exposed to ETS at home. The risk assessment does not consider workplace ETS exposure at all. Nevertheless, these results are being used as the scientific justification for workplace smoking bans. I remind my colleagues that there is in fact substantial data on workplace exposure to ETS, although EPA chose not to consider these data in the ETS assessment. Of 15 existing studies which specifically examine ETS exposure in the workplace, 14 report no statistically significant overall increase in risk.

These points, and a variety of other compelling criticisms raised by the scientific community and individuals testifying before this Subcommittee, beg the question why. Why is a federal agency willing to bend scientific standards and overlook readily available evidence that would directly impact its study? It has been suggested that EPA set out to prove that ETS poses a significant workplace health risk and that it was determined not

to let scientific objectivity get in the way. Given the available evidence, this appears to be the case.

On the ETS issue, EPA seems to have backed itself into a corner by initiating its research with a specific policy goal in mind. The EPA report's companion document, a policy guide on workplace smoking, reportedly was prepared before the completion of the risk assessment. In other words, it was developed on the premise that a hazard exists and would be demonstrated through the risk assessment process.

As soon as the EPA's findings were ballyhooed to the public, various health advocates, smoking opponents and others started lining up to propose various ETS-related policies. These groups have been successfully tapping into the alarmist momentum sparked by the EPA report to further their agendas.

With the introduction of H.R. 881, Congress is faced with the task of determining what action, if any, is warranted on the ETS issue. Unfortunately, all tobacco-related issues are so politically charged that it becomes difficult to separate the desire to react from the need to react. Therefore, I urge my colleagues on this Subcommittee to ignore the sentiment surrounding the ETS issue -- to ignore their personal views about smoking -- and to base their decisions on an objective consideration of the facts.

Even if the EPA risk assessment were sound science, it alone would not indicate the need for a workplace smoking ban. Americans are predisposed to panic whenever they hear the term

carcinogen. However, in reality, we are exposed to hundreds of pollutants, including some carcinogens, every day in our workplaces and homes. We need to recognize that the level of exposure should determine the need for concern. For example, the Occupational Safety and Health Administration (OSHA) has determined there is no need to ban every molecule of benzene or asbestos, both considered by EPA as Class A carcinogens, from indoor environments. Likewise, you have heard testimony that fewer than two dozen components of ETS even can be measured and that their concentrations are thousands of times below the corresponding levels that OSHA permits in the workplace.

I remind my colleagues that OSHA currently is considering the EPA report and all of the available evidence on this issue to determine if workplace smoking should be regulated. While OSHA and this subcommittee consider this issue, alarmists will continue to promote the EPA report and attempt to generate a false sense of urgency. It is my hope that cooler, calmer heads will prevail.

It would be irresponsible to impose a significant burden on a large portion of the federal workforce without the evidence to justify such a decision. Currently, although the sentiment may be strong, the science and logic are conspicuously lacking.

I thank the Chairman for the opportunity to address the Subcommittee on this important issue.

STATEMENT OF REPRESENTATIVE VALENTINE

HEARING ON H.R. 881

Mr. Chairman, we are here debating a rather drastic measure to impose a sweeping smoking ban in federal buildings -- a ban that I believe is entirely unjustified and must strongly oppose.

None of us would dispute that in order to justify such extreme action, we need compelling evidence. Anti-smoking advocates contend that the recent Environmental Protection Agency risk assessment on environmental tobacco smoke (ETS) provides such evidence, and they are anxious to strike while the political iron is hot. As policymakers, however, we must consider that the ETS report is not without significant controversy within the scientific community. Although the report has been successfully used to fuel anti-smoking sentiment, it does not demonstrate the need for action by Congress or anyone else.

The EPA risk assessment has been exposed as a classic example of adjusting science to fit policy. In the course of our hearings on H.R. 881, we already have heard compelling testimony outlining some of the many reasons why the EPA report is considered "bad science." And, on this particular issue, it doesn't take a scientific genius to understand how the report is flawed. Simply put, the EPA's ETS risk assessment dismisses studies that do not support the report's conclusions, selectively ignores relevant data and statistically manipulates the data it does consider to reach a scientifically unjustified conclusion.

In reality, the EPA study is not new research at all, but is

a combination, analysis and manipulation of data from existing studies. Importantly, not one of the 11 U.S. studies included in the EPA risk calculation originally reported a statistically significant overall increase in lung cancer risk to nonsmokers married to smokers. Only after several "adjustments" to the pooled data could EPA claim statistical significance from the data.

Even after these subjective "adjustments," EPA was forced to double its standard margin of error to arrive at the desired conclusion. Generally accepted convention, and EPA policy, requires the use of a 95 percent confidence interval for statistical evaluation of data -- which is along the lines of a plus or minus 5 percent margin of error in a poll. Yet in this instance, EPA lowered its standard to 90 percent in order to claim a statistically significant result.

Finally, it is important to note that EPA completely ignored two significant studies that, when combined with the studies EPA did include, produce a result which fails to meet even the lowered standards EPA applied. According to scientific experts, when the data from these studies are added to EPA's analysis -- using EPA's own procedure and "adjustments," the result is not significant at the 95 or 90 percent level.

But regardless of the merits of the EPA report, the fact remains that it is not a workplace study but a study of nonsmokers married to smokers, and it therefore is not directly relevant to the proposal this subcommittee is considering. In

fact, there are 15 studies of lung cancer risk in nonsmokers exposed to ETS at work, and a full 14 report no statistically significant increase in risk.

The Occupational Safety and Health Administration (OSHA), which is now evaluating the risk of ETS exposure in the workplace, will consider the ETS risk assessment along with all of the other relevant scientific information. It is worth noting, however, that OSHA has on several occasions in the past determined that the available data on ETS exposures in the workplace do not justify immediate or separate action on ETS.

Mr. Chairman, it is an unfortunate fact that EPA's report on ETS is not unique -- that a lack of credible science is becoming all too common at EPA. The agency is under increasing criticism for generating alarmist health reports and for allowing public policy considerations to influence its scientific conclusions. Just last year, the EPA administrator convened an expert panel to review how science is conducted at EPA and to suggest improvements. The panel reported that EPA science is of "uneven quality" and the agency's policies are "frequently perceived as lacking a strong scientific foundation."

I realize that when certain issues become politically charged, EPA comes under pressure, sometimes overwhelming pressure, to take action. However, whether the issue is alar, chlorinated water, ETS or any other substance, it is inexcusable to railroad the American public into unjustified alarm and the American government into unsupportable action. Just as law

enforcement officials are prohibited from manufacturing evidence to convict a suspect they believe to be guilty, the EPA must avoid the temptation to adjust science to justify predetermined policy decisions.

I am optimistic that, under the new Administration, we will implement much needed reforms in our federal agencies, including EPA. We have a unique opportunity to restore the appropriate spirit of scientific integrity to EPA and to increase the American public's confidence in this vital agency. This should be a priority, especially at a time when some are calling for elevation of EPA to cabinet-level status.

Until such reforms take place, we often will have to look elsewhere for scientific objectivity on issues such as this. Fortunately, in this case, there is no shortage of available scientific data. For example, the largest U.S. study of its kind on ETS was sponsored in part by the National Cancer Institute and published just last year in the American Journal of Public Health. This research reported no statistically significant increase in nonsmoker lung cancer risk based on reported exposure to ETS. To date, 35 epidemiological studies of ETS and nonsmoker lung cancer have been published, two-thirds of which report no statistically significant relationship between ETS and lung cancer among nonsmokers.

An additional fact this Subcommittee must consider is that the actual amount of ETS present in federal buildings, or any office environment, is miniscule. We've heard testimony that

even the infamous EPA report shows that, in the course of an entire year, the average nonsmoker may be exposed to less "tar" than what may be obtained by smoking one single cigarette. We've also heard that properly ventilated smoking areas can eliminate ETS exposure to nonsmokers elsewhere in the building.

I urge my colleagues, regardless of their personal opinions about smoking, to give this legislation a fair and objective evaluation. If we let reality and credible science -- not propaganda -- drive the policymaking process, we certainly will conclude that there is no evidence to warrant federally mandated discrimination against smokers.

HEARING ON H.R. 881

STATEMENT OF REPRESENTATIVE ROBERT WISE

Mr. Chairman, thank you for the opportunity to address the members of this Subcommittee during consideration of H.R. 881, which proposes banning smoking in federally-owned and -leased buildings.

Mr. Chairman, I would like to express several reservations about this proposal, the strongest of which is the lack of justification for such a measure at this time. For the federal government to act to ban smoking completely in all federal workplaces, there should be compelling need. In fact, as we meet, there are federal regulations in place restricting smoking to specific, segregated areas of the buildings in question. These regulations -- created with both the comfort of workers and the rights of workers in mind -- have proved satisfactory to both smokers and nonsmokers for the past six years. To inject the federal government further into the employer-employee relationship seems overbearing and unnecessary.

I would also like to point out that this legislation lacks any flexibility for individual departments and agencies to set policies suitable to their workforce. As I understand this proposal, the same regulations would apply to a huge operation such as the Department of Health and Human Services as to a small field office in the Department of Agriculture. This seems both

unfair and impractical. Clearly, there are different preferences in different offices as well as variations in occupancy and ventilation. It seems to me that smoking policies are best left to individual agencies and their managers as they best know their own environments and their workers' needs and preferences.

Given the fact that existing smoking policies in federal buildings seem to be appropriate and satisfactory, the only justification for further federal action would appear to be the Environmental Protection Agency's (EPA) recently released report on environmental tobacco smoke, in which EPA expresses the belief that ETS is a Group A carcinogen. I am sure that this Subcommittee is familiar with the many scientific criticisms that have been outlined in news reports about the EPA assessment. I, for one, am not qualified to evaluate these criticisms, but I do question the need for such drastic action based on a document apparently so lacking in credibility.

On the other hand, even if we presume that EPA's risk assessment is supportable, it seems clear from a common sense perspective that its conclusions do not justify a total ban on smoking in federal workplaces. All scientists acknowledge that we encounter low levels of substances that are believed to be carcinogenic every day, at our workplaces and in our homes. In fact, according to one prominent expert, we encounter naturally occurring carcinogens even in a normal, healthy diet -- for example, from eating broccoli. And yet these substances are not banned, but are believed to be tolerable at the low levels to which we typically are exposed.

There is simply no good evidence to suggest that exposure to ETS is any different from these other widespread exposures. As I understand it, in fact, in buildings where smoking is restricted to designated or simply separated areas, levels of ETS are hardly detectable. It defies common sense to suggest that barely detectable levels of ETS result in material risk to health.

The EPA report on ETS did not consider these specific workplace exposures, nor did it evaluate a number of important studies that have attempted to assess health risks from ETS exposure in the workplace. Perhaps that is because workplace health and safety is properly the responsibility of the Occupational Safety and Health Administration, which is now in the process of determining whether ETS exposure in the workplace presents a risk to health. It would seem prudent and respectful of due process to allow OSHA to complete its study before legislating based on unsubstantiated fears.

I would like to make one final point about the ETS risk assessment as it relates to the subject of risk assessment in general. As this Subcommittee probably is aware, current risk assessment methodology is under severe scrutiny by the scientific community, many of whom believe strongly that we simply don't do it well despite our best intentions. EPA in particular has come under scrutiny in recent years, most recently by a panel of experts who reviewed the quality of science at EPA and produced a series of recommendations for improvement. In Safeguarding the Future: Credible Science, Credible Decisions, these experts criticized EPA for science of "uneven quality," for inadequate

quality assurance and peer review and even for "adjusting" science to support its policies.

EPA's risk assessment of ETS was conducted even as the panel was reviewing the quality of EPA's work and finding it lacking, and in fact is a prime example of the panel's conclusions. It concerns me greatly that we would consider federal legislation based on such a scientifically controversial report.

In summary, Mr. Chairman, given that acceptable smoking regulations are in place already, that the science on ETS is not supportable, and that OSHA has yet to issue its opinion on the health risks, if any, of workplace exposure to ETS, it seems to me that there is no compelling need and in fact no justification for this proposal.

Thank you for the opportunity to address the members of the Subcommittee on this important issue.